

Group I. Claims 1-43 drawn to a combinatorial chemical synthesis reaction tool, classified in Class 422, subclass 102.

Group II. Claims 44 and 45 drawn to a method for exchanging fluids within reaction vessels, classified in class 436, subclass 50.

Group III. Claim 46 drawn to an integral heater and stirrer, classified in class 366, subclass 261+.

The restriction requirement is traversed as improper in light of the close relationship between the claims categorized in the three groups. As stated in MPEP § 803, "Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct.** If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." (emphasis added) This section continues "There must be a serious burden on the examiner if restriction is not required." (emphasis added)

The analysis of the Restriction Requirement does not demonstrate that a serious burden is presented to search and examine all of the present claims. As a general matter, the subclasses appear to be closely related and would appear to be appropriate for search during examination of the claims from any of the groups. Further, analysis of the dependent claims shows actual subject matter overlap. For example, claims 18 and 19 address stirrers and claim 20 addresses a snap on resistance heater which appear closely related to the integral heater and stirrer of claim 46. Further while combinatorial chemistry is a preferred application of the present invention, the more general automatic exchange of fluids addressed by claims 44 and 45 is closely related thereto and it would seem both subclasses should be searched for either Group I or Group II as presently defined.

In the event the restriction requirement is maintained, applicants provisionally elect the Group I claims for prosecution, and as suggested above claims 47-65 should be included in this group. As noted above, one important factor in a restriction requirement is an analysis of the burden on the Office to perform the necessary searching. Here the burden appears the same.

Conclusion

The Restriction Requirement should be reconsidered and withdrawn.

Respectfully submitted,



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